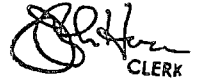


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

FILED

NOV 10 2016

  
CLERK

PROJECT HAWKEYE, LLC, as the assignee of  
CAMPBELL COUNTY WIND FARM, LLC,

Plaintiff,

v.

WINDLOGICS, INC.,

Defendant.

Civ 16 – 1052

**NOTICE OF REMOVAL**

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, the Defendant WindLogics, Inc. (“WindLogics”) respectfully petitions this Court for removal of this civil action from the Circuit Court of the Fifth Judicial Circuit, Campbell County, South Dakota (“Circuit Court”), captioned *Project Hawkeye, LLC, as the assignee of Campbell County Wind Farm, LLC v. WindLogics, Inc.* (the “Circuit Court Action”), to the United States District Court for the District of South Dakota, Northern Division (“Federal Court”), and states as follows:

1. WindLogics petitions that this action be removed to the Federal Court on the basis of diversity of citizenship.

2. Removal is appropriate pursuant to 28 U.S.C. § 1441(a) because this Court has original jurisdiction over the Circuit Court Action based on diversity of citizenship pursuant to 28 U.S.C. § 1332(a)(1). There is complete diversity of citizenship between the parties: Plaintiff Project Hawkeye, LLC, as the assignee of Campbell County Wind Farm, LLC (“Plaintiff”) is a Minnesota limited liability company and is therefore a citizen of Minnesota for purposes of diversity analysis. WindLogics is a Delaware Corporation and an indirect, wholly owned

subsidiary company of NextEra Energy Resources, LLC a Delaware limited liability company, which is in turn indirectly, wholly-owned by NextEra Energy, Inc., a Florida corporation.

While WindLogics does maintain an office in St. Paul, Minnesota, several of its employees and nearly all of its officers are situated in Juno Beach, Florida.

3. On or about October 13, 2016, Plaintiff served on WindLogics, a Summons and Complaint in the Circuit Court Action, true and correct copies of which are attached hereto as Exhibit A. No other pleadings have been filed in the Circuit Court Action.

4. WindLogics first received a copy of Plaintiff's Summons and Complaint on or about October 13, 2016.

5. There is no other defendant in the Circuit Court Action.

6. In the Complaint, Plaintiff alleges that pursuant to a contract entered into between WindLogics and Campbell County Wind Farm ("CCWF"), WindLogics agreed to provide design services for CCWF's wind farm project in Campbell County, South Dakota, and that pursuant to the contract, WindLogics was responsible for siting wind turbine towers and ensuring all applicable setback restrictions were met. Plaintiff further alleges that upon completion of the wind farm project, and after the wind turbine towers had been constructed, CCWF learned that several wind turbine towers sited in the locations selected by WindLogics failed to meet the setback requirements set forth at SDCL 43-13-24. Plaintiff further alleges that several adjacent landowners were unwilling to consent to the location of the non-compliant wind turbine towers and indicated they would pursue claims against CCWF. Plaintiff, therefore, alleges that it negotiated confidential settlements to secure the adjacent landowners' consent to the tower locations. Finally, Plaintiff alleges that WindLogics breached the parties' contract and was negligent in failing to design the wind farm such that it would comply with the applicable

setback requirements in SDCL 43-13-24 and, as a result, Plaintiff incurred liability and losses for which it is entitled to indemnity from WindLogics. Taking these allegations on their own terms, it is apparent from the face of the Complaint that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. WindLogics denies the substantive allegations of Plaintiff's Complaint.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391, 1441(a) and 1446(a)-(b) because the United States District Court for the District of South Dakota, Northern Division, embraces the place, Campbell County, South Dakota, where the Circuit Action was filed and is pending.

9. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because WindLogics is filing this Notice of Removal within thirty (30) days of October 13, 2016, which is the earliest date on which WindLogics was served with or otherwise received the Complaint.

10. Written notification of the filing of this Notice of Removal is being served on Plaintiff's counsel pursuant to 28 U.S.C. § 1446(d) on this date.

11. A true and correct copy of this Notice of Removal will be filed on this date with the Circuit Court.

12. A true and correct copy of the Notice of Removal being filed by WindLogics with the Circuit Court is attached hereto as Exhibit B.

13. WindLogics's Notice of Removal is executed and filed pursuant to Fed. R. Civ. P. 11.

14. A copy of the Civil Cover Sheet is attached hereto as Exhibit C.

WHEREFORE, WindLogics respectfully requests that all persons take notice that the Circuit Court Action, presently pending in the Circuit Court of the Fifth Judicial Circuit,

Campbell County, South Dakota, has been removed to the United States District Court for the District of South Dakota, Northern Division.

Dated: November 10, 2016.

CADWELL SANFORD DEIBERT & GARRY LLP

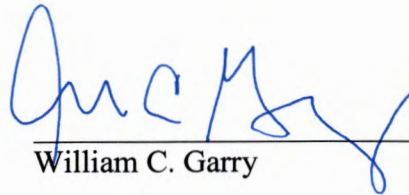
By: 

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Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on November 10, 2016 a copy of the foregoing *Notice of Removal* was served by U.S. mail, postage pre-paid, with a courtesy copy sent via e-mail, to the following attorneys of record:

Jack Hieb  
Zachary Peterson  
Richardson, Wyly, Wise,  
Sauck & Hieb, LLP  
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William C. Garry